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| CARRIER BLACKMAN AND ASSOCIATES 24101 NOVI ROAD SUITE 100 NOVI, MI 48375 | | | EXAMINER MCMAHON, MARGUERITE J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3747 | |

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,025

Applicant(s)

URUNO ET AL.

Examiner

Marguerite J. McMahon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 9, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Glovatsky et al (6,186,106). Note an intake plenum 50 with runners 54 extending out to all of the cylinder bores. A plurality of electrical parts 102, 104, 114, etc (see Figures 3 and 4) comprising an engine control module and wires (see column 3, lines 24-38) are disposed around said intake plenum 50 and are covered with a one-piece shield cover 112 attached to the engine body in such a manner as to cover at least part of said intake plenum. The intake manifold is considered to be part of the engine body. With respect to the new limitations added to the claims, Applicant's attention is directed to the embodiment of Figure 10, which shows a unitary shield cover or rigid housing 330, wherein the shield cover is provided in a size and shape sufficient to protectively cover all of the fuel injectors 94 and injection coils (not shown, but see column 7, lines 43-51), and wherein the shield is configured to substantially cover said cylinder bores (see column 7, lines 1, 16, and 17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glovatsky et al (6,186,106) in view of Uchida (5,630,386). Glovatsky et al show everything except each of the runners comprising connecting pipes having outwardly flared pickup ends, each runner comprising an arcuately curved intake pipe, and each connecting pipe curving rearwardly in the plenum. Uchida teaches that it is old in the art to employ runners comprising connecting pipes having outwardly flared pickup ends, each runner comprising an arcuately curved intake pipe, and each connecting pipe curving rearwardly in the plenum. It would have been obvious to one of ordinary skill in the art to modify Glovatsky et al by employing runners comprising connecting pipes having outwardly flared pickup ends, each runner comprising an arcuately curved intake pipe, and each connecting pipe curving rearwardly in the plenum, in order to improve flow characteristics of the intake air flowing through the runners.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glovatsky et al (6,186,106) in view of Uchida (5,630,386) as applied to claims 3-5 above, and further in view of Brackett (5,560,327). Glovatsky et al in view of Uchida show everything except the engine having a configuration wherein the cylinder bores are opposed to each other and sandwiching a crankshaft, which is supported on a crankcase, and wherein the intake plenum 54 is disposed above said crankcase (see Figure 1A). Brackett teaches that it is old in the art to utilize an engine configuration wherein the cylinder bores are opposed to each other and sandwiching a crankshaft,

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which is supported on a crankcase, and wherein the intake plenum is disposed above said crankcase. It would have been obvious to one having ordinary skill in the art to modify Glovatsky et al in view of Uchida by providing an opposed cylinder bore engine configuration, as shown by Brackett, as such an engine configuration is an alternative equivalent to the Vee-type engines utilized by Glovatsky et al and Uchida, and is conventional in the engine art.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glovatsky et al (6,186,106) in view of Croft et al (3,814,069). Glovatsky et al show everything except a sensor for detecting a condition in said intake plenum extending from the control unit through a side wall into the intake plenum. Croft et al teach that it is old in the art to employ a pressure sensor 29 extending through a side wall into the intake plenum 12 (see Figures 1 and 2). It would have been obvious to one of ordinary skill in the art to modify Glovatsky et al by employing a pressure sensor extending from the control unit through a side wall into the intake plenum, in order to detect the pressure in the intake plenum, thus providing improved control information to the control unit.

Claim 10 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Glovatsky et al ((6,186,106). Glovatsky et al show everything except employing an air cleaner. It would have been obvious, if not inherent, that an air cleaner housing operatively connected to the throttle body would be utilized, in order to filter the incoming air, as is conventional, in the engine art.

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Claims 11, 13, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glovatsky et al (6,186,106) in view of Brackett (5,560,327). Glovatsky et al show everything except the engine having a configuration wherein the cylinder bores are opposed to each other and sandwiching a crankshaft, which is supported on a crankcase, and wherein the intake plenum is disposed above said crankcase. Brackett teaches that it is old in the art to utilize an engine configuration wherein the cylinder bores are opposed to each other and sandwiching a crankshaft, which is supported on a crankcase, and wherein the intake plenum 54 is disposed above said crankcase (see Figure 1A). It would have been obvious to one having ordinary skill in the art to modify Glovatsky et al in view of Uchida by providing an opposed cylinder bore engine configuration, as shown by Brackett, as such an engine configuration is an alternative equivalent to the Vee-type engines utilized by Glovatsky et al and Uchida, and is conventional in the engine art. With respect to the newly added limitation in claim 11 that the shield cover comprises a metal plate and is electrically connected to the engine body, i.e. grounded, see column 4, lines 27-31, which indicate that the cover may be made of metal. Note that it would be inherent that a metal cover attached to a conventional (i.e. metal) engine would be electrically connected, i.e. grounded, since it is made of metal and metal is electrically conductive.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glovatsky et al (6,186,106) in view of Brackett (5,560,327) as applied to claim 11 above, and further in view of Croft et al (3,814,069). Glovatsky et al in view of Brackett show everything except a sensor for detecting a condition in said intake plenum

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extending from the control unit through a side wall into the intake plenum. Croft et al teach that it is old in the art to employ a pressure sensor 29 extending through a side wall into the intake plenum 12 (see Figures 1 and 2). It would have been obvious to one of ordinary skill in the art to modify Glovatsky et al in view of Brackett by employing a pressure sensor extending from the control unit through a side wall into the intake plenum, in order to detect the pressure in the intake plenum, thus providing improved control information to the control unit.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glovatsky et al (6,186,106) in view of Brackett (5,560,327) as applied to claims 11 and 13 above, and further in view of Uchida (5,630,386). Glovatsky et al in view of Brackett show everything except each of the runners comprising connecting pipes having outwardly flared pickup ends, each runner comprising an arcuately curved intake pipe, and each connecting pipe curving rearwardly in the plenum. Uchida teaches that it is old in the art to employ runners comprising connecting pipes having outwardly flared pickup ends, each runner comprising an arcuately curved intake pipe, and each connecting pipe curving rearwardly in the plenum. It would have been obvious to one of ordinary skill in the art to modify Glovatsky et al in view of Uchida by employing runners comprising connecting pipes having outwardly flared pickup ends, each runner comprising an arcuately curved intake pipe, and each connecting pipe curving rearwardly in the plenum, in order to improve flow characteristics of the intake air flowing through the runners.

Response to Arguments

Applicant's arguments filed 7/2/05 have been fully considered but they are not persuasive. Applicant asserts that Glovatsky et al (6,186,106) does not show the newly added limitation because the device in Glovatsky includes a cover which covers only the plenum. As noted above, in the embodiment shown in Figure 10 shows a unitary shield cover or rigid housing 330, wherein the shield cover is provided in a size and shape sufficient to protectively cover all of the fuel injectors 94 and injection coils (not shown, but see column 7, lines 43-51), and wherein the shield is configured to substantially cover said cylinder bores (see column 7, lines 1, 16, and 17).

Applicant further contests the examiner's rejection of claim 10 under 102(b) as anticipated by Glovatsky et al. It is noted that claim 10 was rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Glovatsky et al ((6,186,106). Glovatsky et al show everything except employing an air cleaner. It would have been obvious, if not inherent, that an air cleaner housing operatively connected to the throttle body would be utilized, in order to filter the incoming air, as is conventional, in the engine art. It should be pointed out that most engines would fail miserably without the inclusion of an air filter as a necessary component. Thus, the finding of inherency is reasonable.

Applicant further argues that Uchida (5,630,327) and Brackett (5,560,327) do not show a shield for electrical parts, as claimed by Applicant. Since these references were not relied upon to show this feature, this argument is not relevant.

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Applicant further argues that Uchida and Brackett "disclose no reason to believe that the runners disclosed therein would benefit from a protective cover of the sort claimed by applicant, nor does either reference suggest such a combination." Since each of these references were cited as provided teachings which would be employed to modify Glovatsky rather than the other way around, as suggested by this argument, this argument is similarly irrelevant.

Applicant asserts that various specific dependent claims are allowable but as there are no reasons given to support these assertions, aside from the remarks pertaining to the independent claims, no response to the individual assertions is deemed necessary.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 703-308-1956. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MARGUERITE MCMAHON
PRIMARY EXAMINER